

① MEMORANDUM

with regard to Bill No. 12. An Act
Respecting the Lord's Day

The Bill as amended by the Special Committee has been reprinted and is now before the House of Commons for discussion.

The amendments were not submitted to the representatives of the Railway Companies and they had no opportunity of presenting their views upon them before the Committee and it, therefore, becomes necessary to do so by a memorandum for the consideration of the members of the House, which I herewith respectfully present.

The Railway Companies before the Committee proposed that clauses (g) and (h) of section 4 of the original Bill should be omitted from the exceptions, and that a general comprehensive clause should be inserted in the Bill permitting the business of transportation to be carried on, and in this request they were joined by the Dominion Marine Association and the Shipping Federation of Canada.

See the Report of the proceedings before the Select Committee, pages 45, 116.

The amendment, if applied to the Bill as reprinted, would involve the following changes:

Strike out clauses (f), (g), (h), (i), (k) and (l) from section 3 of the Bill and insert therein this clause as (f):

"(f) The conveying of travellers, freight, express, His Majesty's mails, and the doing of any work incidental thereto."

Nov 3

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The Railway Companies think such a clause is the only clause practicable to meet all the diverse conditions which now exist and which will undoubtedly hereafter arise, and that the attempt to set forth a number of specific exceptions covering work that may be done, notwithstanding the positive prohibition contained in section 2 of the Bill, is a failure inevitable from the nature of the subject.

In considering the effect of the different exceptions, it must be constantly borne in mind that every person is, by section 2, prohibited from carrying on the work of his ordinary calling, and that every employer is prohibited from permitting any employee to carry on such work between the hours mentioned in the Act. No work, therefore, can lawfully be done unless it is expressly authorized by some one of the exceptions.

g 1.—Under section 3 (f.) trains and boats may be moved, so far as may be necessary for the conveying of travellers, but there is no provision made for the carriage of mails or express. It is true that mails and express matter are usually carried upon passenger boats or passenger trains, but that does not make the work of the mail clerk or of the express messenger, work incidental to the conveying of travellers, and there is no clause in the Bill which would protect them from prosecution if engaged in such work after midnight on Saturday. The express car and the mail car on every train would have to be cut out of the train and left at some siding on Saturday night to remain there until after midnight on Sunday. This was probably not intended by the Committee, but it shows that the words "conveying of travellers" have been assumed to include a number of things that they do not in fact include.

Mails are conveyed in the charge of a mail clerk and express freight in charge of an express messenger, and not otherwise, and neither of these men can carry on the business of his ordinary calling unless an express exception is made in his favour under some one or other of the exceptions in the Bill.

h 2.—Again, under clause 4 (g.), the continuance to their destination of trains and vessels in transit when the Lord's Day be-

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gins is permitted. Does this clause enlarge or does it qualify clause (f.)? Is it intended that (g.) shall apply only to freight boats or freight trains, or is it intended to prohibit the starting from its terminal point of a passenger boat or a passenger train? If trains and vessels not carrying passengers are alone intended by clause (g.) then that should be made clear, because, as they stand at present, the two clauses read together appear to prohibit the movement of a passenger boat or passenger train unless it is in transit before midnight on Saturday night. It may be said that the "conveying of travellers" necessarily means that passenger boats and passenger trains may be moved without restriction, but, although travellers are usually carried either by boat or by train, there are other methods of conveying travellers. In any case, there is an uncertainty as to the meaning of the two clauses (g.) and (h.), which should be removed.

3.—If the meaning of these clauses is made clear and (g.) is made to apply only to freight vessels and freight trains, the next point is that the clause is inadequate to enable the business of transportation to be carried on as intended.* When does a freight train arrive at its destination? If construed literally, it will only apply to trains which go through from one division to another without change. Very few trains do this. Cars are dropped at some stations and others are taken on. Changes in the cars of which the train is composed occur, perhaps, a dozen times within the limits of each division. At the end of the division, the train crews leave the train. The locomotive is taken off and sent to the round house and a new locomotive takes its place. Cars are left off the train and new ones added to it. The cars are sorted and redistributed. When that train proceeds on its journey is it a continuance to its destination of a train in transit? If not, in the vast majority of cases, the movement of freight will be stopped within or at the end of the first division. The officials of the Canadian Pacific Railway say that few trains continue through except those containing only special freight, like a silk train or a cattle train, and such trains are only a small minority of the whole.

*See minutes of evidence, page 197.

Even if the train is preserved intact and proceeds on its way, no provision is made for the return of the crew to the place where they belong, unless a similar through train coming from the opposite direction arrives opportunely to enable them to return.

h 4.—There are numerous cases of combined rail and vessel traffic where clause (g.) does not apply and where a complete stoppage of traffic must result. For instance, the C.P.R. train arrives at Kootenay Landing, in British Columbia, to connect with the steamer leaving for Nelson on Sunday morning. The boat has arrived from the opposite direction to connect with the train. Neither boat nor train is intended to continue through to a destination, but is to turn round and go back in the reverse way over the route it has traversed. That is clearly not permitted under clause (g.), and, even though such a train and such a boat is allowed to proceed as being engaged in conveying travellers under clause (f.), yet merchandise may not be transferred from boat to train or train to boat, because clause (h.) only permits the unloading of merchandise at intermediate points from passenger boats or passenger trains. The same difficulty arises with the Canadian Pacific boats connecting with trains either way at Fort William, Owen Sound, and at Vancouver.

5.—(i) "Keeping tracks clear of snow and ice," is permitted. Is it intended to limit these words by the latter words of the clause "without the doing of which on the Lord's Day, the traffic on any transportation line cannot be safely carried on"? It is obvious that the removal of snow and ice is not a question of safety. It is rather, in serious cases, the danger of ruinous loss, and expense to every one concerned, which is to be avoided. If it is not intended to limit the removal of snow and ice to cases in which the safe carrying on of the traffic is involved, then the general words referring to other work of a like incidental character should not be so limited.

Suppose, as frequently happens, that locomotive power is inadequate for the prompt movement of the traffic, especially in the winter season, that a locomotive temporarily disabled can be made fit for duty by two or three hours work in the shop, replac-

ing a bolt or a pin, is that not a work of repair necessary to be made to avoid blocking and hampering the whole operations of the railway, and yet there is no question of safety involved in the matter. If clause (i.) is closed at the word "character," it would be of some value, but, if limited to cases in which the safety of life or property is involved, it goes no further than the permission to pull one's ox or one's ass out of a pit, which has a higher sanction than that of the present Bill.

6.—A further question as to the removal of snow and ice arises under clause (i). Mr. McNicol testified that, when trouble is beginning with a snowfall, the best method of avoiding a blockade by snow and ice, either in the yards or out upon the line, is by keeping the trains moving. This subject was mentioned to the gentlemen promoting the Bill, and Mr. McNicol said that, if the snow was not too deep, he would keep his trains moving. The reply was: "We would not want you to do that, but we would allow you to send out your snow plough." But Mr. McNicol said: "My cars standing in the yards among the drifting snow would be liable to be frozen in on the tracks, and it might take days to get them out again," and the answer was: "In that case, we should permit you to hire men to dig them out." This clause should leave no room for doubt as to the power of the Companies to keep their tracks open by the movement of locomotives and trains of cars loaded or unloaded. This would entail comparatively little loss upon the Company, unless the snow fall should prove to be of unusual magnitude. With storms of moderate violence the tracks upon most railways can be kept open by the ordinary movement of trains, and the movement of a train in this way requires the employment of fewer men and, on Sundays, would take less Sunday labor than sending out a gang of men with a snow plough. So the shifting and moving of cars in a yard during a snow fall would, in ordinary circumstances, be performed by a yard engine and shunting crew of five men, but, if a yard full of cars are allowed to become imbedded in snow and ice, the labor of hundreds of men for a week may not suffice to liberate the cars.

I quote from the evidence of Mr. McGuigan, page 91 of the evidence:

" Q.—What would happen if you attempted to comply with
" the section as it stands, and stop those trains at a divisional
" point?"

" A.—If I might be permitted, I would say there would be
" times when the road would be tied up for a week before we
" could get it straightened out again, for the reason that, in a
" severe storm, the snow would not have to be of as great depth,
" but with a big wind it would fill in underneath the bodies of the
" cars, fill it right up, so that it would be impossible to pull the
" cars out. You would have to pull out one or two cars at a
" time and clean the snow off. We have had in the Montreal
" yards as many as three engines pulling out cars at a time when
" they were blocked up in that way.

" Q.—Does that mean a large quantity of snow?"

" A.—Not so much that as severely cold weather with a high
" wind, and often a fresh fall of snow after you have a little warm
" weather when the ground is fairly covered, a fall of three or
" four inches of snow on the ice, and it will blow in and fill the
" tracks up."

See also the evidence of Mr. McNicol, page 87.

" Then take the ferry boats in winter; at Detroit, we have to
" run them backwards and forwards, and we run them that way
" the winter through when the ice is forming hard, but we run
" them with loads on, we cannot afford to run them backwards
" and forwards with nothing in them when we have hundreds of
" cars waiting on one side to be taken across."

7.—Clause (j) is impracticable. When passenger trains or
freight trains arrive at their destination, the train has to be taken
apart, the locomotive taken to the round house, the ashes removed
and other cleaning attended to. Freight cars must be sorted out
and placed where they will be ready for Monday morning's load-
ing or unloading. Freight cars are arriving at points like Winni-
peg, Fort William, Montreal or Toronto all through the day and
they cannot be allowed to stand accumulating for ten hours be-

fore any disposition is made of them. If that is made necessary by this Bill, such yards would be in a hopeless state of confusion, which would require hours and perhaps days of extra, needless and wasteful labour to put right. No railway has sufficient yard room for the accumulation of the cars which would arrive at terminal points if the restriction in this clause is insisted upon.

See the evidence of Mr. Adams of the Canada Southern Railway, page 95.

"Q.—Your freight comes across the river at Detroit? and recrosses again at Fort Erie or Niagara Falls?"

"A.—That is the eastbound freight."

"Q.—What distance is that run?"

"A.—Two hundred and twenty odd miles."

"Q.—Supposing you strike Sunday while en route and your trains are tied up for twenty-four hours, what would be the result?"

"A.—It would mean, as I say, that the trains actually in transit could not physically be brought into the terminal point. We would be obliged to use the main track to store trains and the accumulation in the yard would result in more than twenty-four hours delay, which has heretofore been referred to. Of course it would use up entirely the available yard room for working the trains and switching, and the work for the next three or four days would be so hampered as to result in actually at least forty-eight hours delay to both cars and engines. It would mean much more than 14 per cent. reduction in the available cars and would necessitate more than that increase in the motive power to operate the one division that we have between Detroit and Buffalo."

"Q.—How long does it take to make that run between Detroit and Buffalo in the ordinary way?"

" A.—The more important freight covers the division in ten hours, more or less, and the less important freight occupies twenty-four hours or more."

" Q.—And if you add twenty-four hours to that you would strike the freight yard?"

" A.—Yes, the delay would be more than that, because the operation of the trains is very slow. The transportation of the trains would necessitate the use of anywhere from four to seven or eight tracks, and if the tracks are occupied by trains stored there twenty-four hours at any time, it will cause as much delay in the operation of the system as a snow storm."

By Mr. Sinclair:

" Q.—When you speak of fifteen trains a day, do you eliminate the passenger and trains with live stock, or is that the whole traffic of the road?"

" A.—During the twenty-four hours we dispatch from the divisional points sometimes sixty or more freight trains, including all classes of freight in the busy season. I said fifteen because that will be the number of trains actually moving between the divisional points at midnight on Saturday.

By Mr. Ames:

" Q.—How many trains would arrive from the east and the west at your divisional point, St. Thomas, in the course of twenty-four hours on Sunday?"

" A.—Freight trains only?"

" Q.—Freight trains only."

" A.—We would get in between something like twenty-five or possibly thirty altogether, freight and live stock."

" Q.—From each direction?"

" A.—Twenty-five or thirty trains from each direction."

" Q.—What position do you hold?"

" A.—Divisional Superintendent in charge of that division of
" the Canada Southern."

8.—No provision is made for the necessary removal by the express messenger of his safe and other valuables on the arrival of a passenger train or boat at its destination and (h) only provides for unloading at intermediate points. The safe and its contents have to be removed from the train and carried in an express waggon, to be placed in the office for safe keeping. This occurs at every terminal point when an express car arrives.

9.—The word "ocean-going" in clause (k) restricts the operation of the clause so that it has no application to vessels or steamships on the Upper Lakes or other inland waters. In fact, so far as the vessels engaged in inland navigation are concerned, the clause is worse than useless, because it casts a doubt upon the owner's right to load or unload them, even when there is imminent danger of the vessels being stopped by the closing of navigation, which should be permitted as a work of necessity. The word "ocean-going" should be struck out and the word "date" be changed to "time".

10.—Section 4 is another section calling for a useless and extravagant waste of time and money, either at the expense of the Company or its employees. If a man works two hours on Sunday, why should he have twenty-four hours of idleness at some time during the week? If he is paid by the trip or run, as most operating men are, such idle time is just so much lost earnings for the man. Suppose he is a station agent, telegraph operator, or switchman, who has to wait upon two trains each way during Sunday, who is to replace him when he takes his twenty-four hours' rest, say from 6 p.m. on Tuesday until 6 p.m. on Wednesday? How could the Company find thousands of trained men to replace during the week all the men who have for a few hours, or a few minutes, it may be, worked in connection with traffic on Sunday. The section is, so far as railways are concerned, absolutely impracticable. Watchmen are employed on tracks in British

Columbia. Their work is light, they are only required to watch out for landslides, fires or snow slides. The only physical exercise possible is to walk up and down the track. Such men are limited in number and are difficult to procure and replace. These men cannot be replaced for twenty-four hours, and the traffic would either have to be carried on at great risk to the lives of passengers and employees, or be suspended on account of the absence of watchmen.

See the evidence of Mr. McNicol, page 87:

" There were one or two things that I had taken care of, and
" would like to put in a word or two in connection with if you
" will permit me. Take the question of through trains. I think I
" said that it requires a car inspector to thoroughly examine their
" wheels and men to wash, ice, and oil the trains; then we want
" men at the station to handle the baggage and tickets and in
" connection with patrolling the track. Then on the question of
" snow, we have to run certain trains and watch rock slides; we
" have to keep men watching there day and night all the year
" round; there is scarcely a day they are not watching to see that
" nothing goes wrong. They go there daily to work, but their
" work is really nothing but simply sitting and watching. In
" breaking freight trains, even for a part train, it is going to
" throw an immense amount of additional work at the station,
" even on Sundays, to let all the trains get into the divisional
" yard on Sunday. It means a tremendous amount of work
" breaking up trains, and putting them away, more than it would
" take to run them through and will cost as much too."

11.—In conclusion, I desire to point out, what is made very clear in the evidence of Mr. McNicol, that the disabilities arising out of the operation of railways under this Bill will interfere very seriously with the business of the railways in carrying freight in competition with the trunk lines and transcontinental lines of railway in the United States. Upon this subject, I refer to the evidence of Mr. McNicol, beginning at page 69, of Mr. McGuigan, beginning at page 88, of Mr. Spencer, beginning page 93, of Mr.

Adams, beginning page 94, of Mr. Stout, beginning page 99, and
of Mr. Bury, beginning page 131.

I respectfully request your best consideration to the case of
the Transportation Companies with the enormous public interest
which it involves.

F. H. CHRYSLER,

Of Counsel for the Railway Companies.
and for the Dominion Express Co.

Ottawa, June 14th, 1906.